

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DAVID AUSTIN,

Plaintiff,

vs.

ER SOLUTIONS, INC.,

Defendant.

Civil Action No. 11-6057

JURY TRIAL DEMANDED

DEFENDANT ER SOLUTIONS, INC.'S MOTION TO DISMISS COMPLAINT

Defendant, ER Solutions, Inc. ("ERS") by and through its undersigned counsel, Kaufman Dolowich Voluck & Gonzo LLP, respectfully moves the Court for an Order dismissing Plaintiff, David Austin's Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). As set forth more fully in the Memorandum of Law in Support of ERS' Motion to Dismiss Plaintiff's Complaint, Plaintiff's claims must be dismissed, as a matter of law, for failure to state a claim upon which relief can be granted (i) under the Fair Debt Collection Practices Act; (ii) under the Telephone Consumer Protection Act; (iii) under Plaintiff's common law claim for invasion of privacy; and (iv) for punitive damages.

Respectfully submitted this 8th day of December, 2011,

KAUFMAN DOLOWICH VOLUCK & GONZO LLP

By: /s/ Anne R. Myers

Anne R. Myers, Esquire
Christopher J. Tellner, Esquire
*Attorneys for Defendant,
ER Solutions, Inc.*